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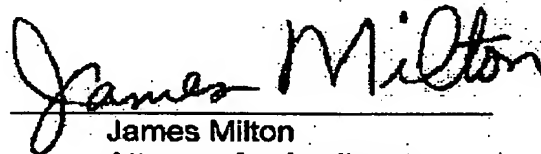
Patent Application

Inventor(s): Edward A. Clark
Case No.: LUC-434/Clark 11
Serial No.: 10/698,328
Filing Date: 10/31/2003
Title: TRANSMISSION OF USER INPUT(S) TO TELEPHONY DEVICE(S)
THROUGH EMPLOYMENT OF DATA STREAM(S) ASSOCIATED WITH
CALL

Examiner Kyung H. Shin
Art Unit: 2443

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent via facsimile transmission to Commissioner for Patents, Mail Stop Amendment, Group Art Unit 2443, Attention: Examiner Kyung H. Shin, P.O. Box 1450, Alexandria, VA 22313-1450, at fax number (571) 273-8300, on August 10, 2010.


James Milton
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Date of Signature: August 10, 2010

Commissioner for Patents
Mail Stop Amendment
Group Art Unit 2443
Attention: Examiner Kyung H. Shin
P.O. Box 1450
Alexandria, VA 22313-1450
Fax Number (571) 273-8300

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets.

REMARKS

Claims 1-33 are pending in the application. Claims 1-33 were rejected under 35 U.S.C. § 103 (a).

Rejections Under 35 U.S.C. § 103 (a)**Rejection Under Salvage, Mikhailov, Battle and Chang**

Claims 1-6, 8-14, 17-22, 24 and 26-32 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over U. S. Patent Application Number 2001/0009014 issued to Savage et al. dated July 19, 2001 in view of U. S. Patent Application Number 2002/0080949 issued to Mikhailov dated June 27, 2002, and further in view of U. S. Patent Number 5,966,662 issued to Murto on October 12, 1999 and U. S. Patent Number 5,958,016 issued to Chang on September 28, 1999.

Applicant respectfully traverses this ground of rejection for the following reasons.

First, applicant's claim 1 recites,

"one or more application server components that transmit one or more user inputs to one or more telephony devices on a call through employment of one or more data streams associated with the call, the one or more application server components being in one or more networks that communicate with other networks via one or more call control protocols, and at least one of the one or more call control protocols is a Bearer Independent Call Control (BICC) protocol;

wherein at least one of the one or more application server components is customer premise equipment operable to communicate through employment of a Session Initiation Protocol (SIP) with one or more other application server components that are customer premise equipment; and

wherein the one or more application server components establish the one or more data streams via employment of a) one or more data stream request messages and b) one or more identifiers which distinguish calls associated with the one or more application server components, and wherein the one or more application server components select the one or more identifiers through employment of one or more methods, and at least one of the one or more methods is a priority selection method."

As stated in the Final Office Action, Savage, Mikhailov and Murto do not teach or suggest application servers as customer premise equipment. This is because Savage

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and Mikhailov disclose network based servers. See paragraph 0040 of Salvage and FIGs. 2-4 of Mikhailov. Murto does not disclose servers.

Second, applicant agrees that Chang discloses a "PC or other computer on the customer premise" that the Examiner has equated to applicant's recited "at least one of the one or more application server components is customer premise equipment". However, Chang's "PC or other computer on the customer premise" is used to access a web page in the network rather than to communicate with one or more other application server components that are customer premise equipment as required by applicant's claim 1. See column 4, lines 45-58. In other words, Chang's "PC or other computer on the customer premise" communicates with a network component rather than with "one or more other application server components that are customer premise equipment" as recited in applicant's claim 1. This is different from applicant's claim 1, because claim 1 recites "wherein at least one of the one or more application server components is customer premise equipment operable to communicate through employment of a Session Initiation Protocol (SIP) with one or more other application server components that are customer premise equipment".

The Examiner proposes to combine Chang with Mikhailov in order to reject applicant's claim 1 limitation. However, Mikhailov's computing components are network components and Mikhailov discloses SIP signaling for nodes in the network, e.g., Content/Service Messaging Network, rather than between at least one CPE application server component and one or more other application server components that are customer premise equipment, as required by applicant's claim 1. See FIGs. 6-7 and paragraphs 0031-0033. In other words, the proposed combination of Chang with Mikhailov results in Chang's "PC or other computer on the customer premise" allegedly communicating with Mikhailov's nodes in the network. This is different from applicant's claim 1. Thus, the proposed combination of Chang with Mikhailov is missing the "wherein at least one of the one or more application server components is customer premise equipment operable to communicate through employment of a Session Initiation Protocol (SIP) with one or more other application server components that are customer premise equipment" elements, as recited in applicant's claim 1.

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Third, the proposed combination of Chang with Mikhailov would result in an inoperable system, because Chang and Mikhailov utilize different protocols for communication. The Examiner cited Mikhailov because of its disclosure of SIP signaling for nodes in the network, e.g., Content/Service Messaging Network. See FIGs. 6-7 and paragraphs 0031-0033. By contrast, Chang's "PC or other computer on the customer premise" utilizes a dial-up network for Internet access, as shown in FIG. 3, and Chang discloses TCP/IP to communicate data messages between various nodes. See column 12, lines 50-56. Chang does not disclose the use of SIP nor is it reasonable for one of ordinary skill in the art to assume that Chang utilizes SIP. Thus, the resulting system would not be operable to communicate based on Chang.

Therefore the proposed combination of Savage, Mikhailov, Murto and Chang does not teach or suggest all of the limitations in applicant's claim 1, and therefore claim 1 is allowable over the proposed combination. Since claims 2-14 and 21-32 depend from allowable claim 1, these claims are also allowable over the proposed combination.

Independent claims 17, 20 and 33 each have a limitation similar to that of independent claim 1, which, as shown above, is not taught by the proposed combination. For example, claims 17, 20 and 33 recite, "wherein at least one of the one or more application server components is customer premise equipment operable to communicate through employment of a Session Initiation Protocol (SIP) with one or more other application server components that are customer premise equipment". The proposed combination does not teach or suggest this limitation for the above-mentioned reasons. Therefore, claims 17, 20, and 33 are likewise allowable over the proposed combination. Since claims 18-19 depend from claim 17, these dependent claims are also allowable over the proposed combination.

Rejection Under Salvage, Mikhailov, Murto, Chang, Cloutier and Battle

Claims 7, 15-16, 23, 25 and 33 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Savage in view of Mikhailov, Murto and Chang, and further in view of various references.

Applicant respectfully traverses these grounds of rejection.

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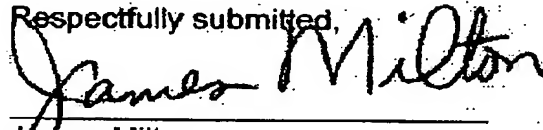
Claims 7, 15-16, 23 and 25 depend from independent claim 1. As noted hereinabove, Savage, Mikhailov, Murto and Chang do not teach or suggest "wherein at least one of the one or more application server components is customer premise equipment operable to communicate through employment of a Session Initiation Protocol (SIP) with one or more other application server components that are customer premise equipment", as recited in applicant's independent claims 1, 17, 20 and 33. Cloutier and Battle do not teach or suggest the elements either. Thus, claims 7, 15-16, 23, 25 and 33 are allowable over the proposed combinations of Savage, Mikhailov, Murto, Chang, Cloutier and Battle under 35 U.S.C. § 103 (a).

Conclusion

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending is respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicant's attorney.

Respectfully submitted,



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Dated: August 10, 2010

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